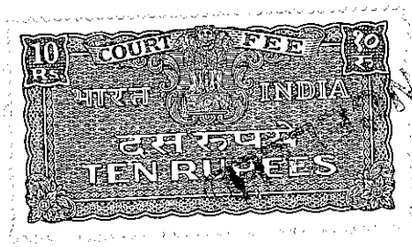
Single Bench

(1)



IN THE HIGH COURT OF CHHATTISGARH AT BILASPUR (CG)

WRIT PETITION NO. 715 /2005

PETITIONER

Punam alias Purnima Vaishnav, wife of Shri Sunil Kumar Vaishnav, aged about 27 years, daughter of Shri Nand Kishore Vaishnav, resident of Ranigaon, Lormi, Distt. Bilaspur (Chhattisgarh)

P.R. No. 715/05
Presented by Shri S. Rsahu
dated 21.12.05

VERSUS

RESPONDENT

Sunil Kumar Vaishnav, son of Late Girvardas Vaishnav, aged about 32 years, resident of Old Sarkanda, Tah. And Distt. Bilaspur (Chhattisgarh)

WRIT PETITION UNDER ARTICLE 227 OF THE CONSTITUTION OF INDIA,

29

उच्च न्यायालय, छत्तीसगढ़, बिलासपुर

मामला क्रमांक .....W.P.715/..... **सन् 2005**

आदेश पत्रक (पूर्वानुबद्ध)

आदेश का दिनांक तथा आदेश क्रमांक	हस्ताक्षर सहित आदेश	कार्यालयीन मामलों में डिप्टी रजिस्ट्रार के अन्तिम आदेश

6-10-2005

Mr. P.P. Sahu, counsel for the petitioner.

None present on behalf of the respondent. No representation is made.

Return has already been filed on behalf of the respondent.

Heard learned counsel for the petitioner.

By this writ petition under Article 227 of the Constitution of India, the petitioner has questioned the legality, propriety and correctness of the order dated 24-1-2005 passed by the 3rd Additional District Judge, Bilaspur, whereby learned 3rd Additional District Judge rejected the application of the petitioner herein moved under Section 24 of the Hindu Marriage Act, 1955, for maintenance *pendente lite* and expenses of proceedings on the ground that the petitioner herein is earning sufficient income for her livelihood being a Shiksha Karmi, and as far the two children are concerned, the respondent is already paying Rs.500/- for each children every month under the order of the Judicial Magistrate, 1st Class, in proceeding under Section 125 of the Code of Criminal Procedure.

Having heard learned counsel for the petitioner, I have perused the petition, impugned order and return filed by the respondent herein. Prayer of the petitioner for maintenance *pendente lite* and expenses of proceedings has been rejected on the ground that being a Shiksha Karmi, the petitioner is earning Rs.2,900/- per month and for the two children she is already getting Rs.1,000/- per month from the respondent as maintenance allowance under Section 125 of the Cr.P.C.

SP/FS/2005 - 20,000

(36)

उच्च न्यायालय, छत्तीसगढ़, बिलासपुर

मामला क्रमांक ..... W.P. 715/ ..... सन् 2005

आदेश पत्रक (पूर्वानुबद्ध)

आदेश का दिनांक तथा आदेश क्रमांक	हस्ताक्षर सहित आदेश -2-	कार्यालयीन मामलों में डिप्टी रजिस्ट्रार के अन्तिम आदेश

As far as the maintenance *pendente lite* is concerned, the order of learned trial Court passed under Section 24 of the Hindu Marriage Act, 1955, is not in any way illegal or perverse for the reason that petitioner is already earning sufficient amount for her self-livelihood being a Shiksha Karmi and she is also getting Rs.1,000/- per month as maintenance allowance for the two children. However, as far as the expenses of proceedings are concerned, it is true that the petition has been filed at Bilaspur, whereas, the petitioner is working at Ranigaon which is said to be more than 50 kms. away from Bilaspur and the petitioner is required to come to Bilaspur to attend the proceedings. Therefore, to this extent the order of the trial Court is not legally sustainable. The trial Court ought to have granted expenses of proceedings, as the petitioner is required to engage the counsel and on many occasions she is required to come to Bilaspur to attend the proceedings or to brief her counsel. In the circumstances, it is just and proper that the respondent should pay an amount of Rs.4,000/- as expenses of proceedings to the petitioner herein.

In the result, the petition is allowed and the order impugned is quashed to the extent that the respondent should pay an amount of Rs.4,000/- to the petitioner as expenses of proceedings. No costs.

Parties are entitled for certified copy of this order.

Sd/-
L.C.BHADOO
Judge

SOMA

SP/FS/2005 - 20,000

18.10.05